



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.12.2023

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CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.R.P(MD)Nos.2142, 2143 & 2144 of 2017 (NPD)

C.R.P(MD)No.2142 of 2017

Selvi ...Revision Petitioner/Petitioner/
3rd party/3rd party
in C.R.P(MD)No.2142 of 2017

Vanarani ...Revision Petitioner/Petitioner/
3rd party/3rd party
in C.R.P(MD)No.2143 of 2017

K.Venkatraman ...Revision Petitioner/Petitioner/
3rd party/3rd party
in C.R.P(MD)No.2144 of 2017

vs.

1.M/s.Madurai Coats Ltd.,
Having its Registered Office at
New Jail Road,
Post Box No.35,
Madurai.

...1st respondent/ 1st respondent/
Petitioner/Plaintiff
in all the revision petitions

2.The Deputy Registrar (Housing),
Madurai Division,
1/25, Sybal Bungalow,



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Sathamangalam,
Madurai-20.

3. Madurai Mills Co-operative Housing Society Ltd., 1303,
Through its Liquidator (Co-operative Sub-Registrar)
No.1/26, Sybal Bungalow,
Sathamangalam,
Madurai-20.

4. Madurai Coats Public Servants
Co-operative Housing society Ltd.,
Represented by its Secretary,
168, Thirumalai Colony,
P.P.Chavadi,
Madurai-10.

...2 to 4 Respondents/2 to 4
Respondents/Respondents/
Defendants
in all the revision petitions

PRAYER in C.R.P(MD)No.2142 of 2017: Civil Revision Petition filed under Section 227 of Constitution of India, to direct the learned Principal District Munsif, Thirumangalam to take on file the unnumbered E.A.No. Of 2017 in E.P.No.24 of 2005 in O.S.No.386 of 1997 on the file of the learned Principal District Munsif Court, Thirumangalam and to decide the same on merits, in accordance with law.

PRAYER in C.R.P(MD)No.2143 of 2017: Civil Revision Petition filed under Section 227 of Constitution of India, to direct the learned Principal District Munsif, Thirumangalam to take on file the unnumbered E.A.No. Of 2017 in E.P.No.24 of 2005 in O.S.No.386 of 1997 on the file of the learned Principal District Munsif Court, Thirumangalam and to decide the same on merits, in accordance with law.



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PRAYER in C.R.P(MD)No.2144 of 2017: Civil Revision Petition filed under Section 227 of Constitution of India, to direct the learned Principal District Munsif, Thirumangalam to take on file the unnumbered E.A.No. Of 2017 in E.P.No.24 of 2005 in O.S.No.386 of 1997 on the file of the learned Principal District Munsif Court, Thirumangalam and to decide the same on merits, in accordance with law.

For Petitioners :Mr.J.Selvin Rajesh

in all the cases

For R1 :Mr.S.Ramesh

in all the cases

For R4 : No appearance

in all the cases

COMMON ORDER

The revision petitioners are third parties to the Execution Proceedings and Execution Applications were filed for noting the obstruction under Order 21 Rule 97 of the Code of Civil Procedure. The Executing Court had returned the said applications directing the petitioners to produce their title deeds. The revision petitioners have straightaway approached this Court under Article 227 of the Constitution of India without even complying with the said return.



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2. The revision petitioners would submit that it is the specific case that they do have any registered document in their favour, but they claimed under the strength of an unregistered settlement and being in adverse possession and therefore, the Executing Court ought to have numbered the application.

3. Per contra, Mr.S.Ramesh, learned counsel for the first respondent would submit that the revision petitioners ought not to have directly approached this Court invoking Article 227 of the Constitution of India and the proper procedure was to first comply with the returns and only if the applications ultimately were rejected, a right accrued to them for challenging the return by way of appeal or revision, as the case may be.

4. Though the learned counsel for the petitioners would place reliance on the decision of the Hon'ble Supreme Court in *Shreenath and another vs. Rajesh and others* reported in (1998) 4 Supreme Court Cases 543, I am of the opinion that the arguments on merits can be canvassed before the executing Court and if the Executing Court is not



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satisfied with the compliance of the returns by the revision petitioners and proceeds to reject the applications, then only the revision petitioners can approach this Court.

5. The Civil Revision Petitions are therefore, pre-mature and consequently dismissed, with a direction to the revision petitioners to re-present their applications before the Executing Court explaining their case and as to why the return could not be complied with and on such compliance being made and papers represented, the Executing Court may pass orders on merits and in accordance with law and if necessary, after hearing the arguments of the learned counsel for the revision petitioners. The Registry is directed to return the original applications to the revision petitioners to enable them to re-present the same before the Executing Court. No costs.

Index: Yes/No
Internet: Yes/No
NCC: Yes/No
AM

06.12.2023



To
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The Principal District Munsif Court,
Thirumangalam.



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P.B.BALAJI,J.

am

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